

L A W S
OF THE
STATE OF NEW YORK

PASSED AT THE
NINETY-FIRST SESSION

OF THE
LEGISLATURE,

BEGUN JANUARY SEVENTH, AND ENDED MAY SIXTH, 1868,
IN THE CITY OF ALBANY.

VOL. II.



ALBANY:
VAN BENTHUYSEN & SONS' STEAM PRINTING HOUSE.
1868.

twenty-fifth, eighteen hundred and sixty-three; and upon a full compliance by the persons above named with all the provisions of the act last named, the Saint Jean Baptist French church, of the city of Troy, shall use and enjoy all its corporate rights and privileges, property and effects, subject to, and in conformity with the provisions of the said act, passed March twenty-fifth, eighteen hundred and sixty-three, whose title is above set forth, and shall thereupon be fully incorporated under the provisions of the same, and be entitled to all the benefits thereof.

§ 2. This act shall take effect immediately.

Chap. 743.

AN ACT to incorporate the Peekskill Water Works Company.

Passed May 8, 1868.

The People of the State of New York, represented in Senate and Assembly, do enact as follows :

SECTION 1. James L. Seabury, Calvin Frost, Stephen Brown, William A. Hunt, Daniel J. Haight, and all such persons as are or may hereafter be associated with them, are constituted a body corporate by the name of "The Peekskill Water Works Company."

Corporators.

Corporate name.

§ 2. The capital stock of said company shall be twenty thousand dollars, and shall be divided into shares of one hundred dollars each, but may at any time be increased by a vote of the stockholders owning a majority of the stock of said company, at a meeting of the stockholders called for that purpose, in the same manner as annual meetings of the company; provided that such capital stock shall not be increased so as to exceed the sum of one hundred thousand dollars.

Capital stock.

Increase thereof.

§ 3. Books of subscription to the capital stock of said company shall be opened under the direction of the directors hereinafter named, and subject to such rules as they may prescribe; and the stock of said company shall

Subscription to stock.

Stock to be

deemed
personal
property.

Board of
directors.

Terms of
office.

Annual
election.

Notice
thereof.

Manner of
voting
thereat.

First di-
rectors.

Vacancies;
how filled.

Inspectors
of election.

Corpora-
tion not to
be dis-
solved for
failure to
elect direc-
tors.

Directors
may en-
force pay-
ment of
subscriptions
to
stock.

be considered personal property, and shall be assignable and transferable on the books of the company.

§ 4. The concerns of said company shall be managed by five directors, who shall be stockholders and residents of the town of Cortlandt, Westchester county, and who shall hold their offices for one year and until others are chosen in their places. The annual election of directors shall be held on the first Monday of June in each year, at such place in the village of Peckskill, and at such hour of the day, as the directors shall appoint. Notice of such election shall be published once in each week for two weeks immediately preceding such election, in a newspaper published in said village. Each stockholder shall be entitled to one vote upon each share of stock held by him or her at the time of such election. The elections shall be ballot, and votes may be given either in person or by proxy.

§ 5. The persons named in the first section of this act shall be the first directors, and shall hold their offices until the first Monday of June, eighteen hundred and sixty-nine, and until others are chosen in their places. In case of vacancy in the direction by reason of the death or resignation of any director, or of his ceasing to be a stockholder, or by his removal from the town of Cortlandt, it may be filled by the remaining directors until the next annual election, or until some other person shall be elected to fill the same. The directors herein named may appoint three persons, who shall be stockholders, to be inspectors at the first election, after which the stockholders shall choose three such inspectors at the annual election. If no inspectors are so chosen, the directors may appoint them from time to time. If at any time an election of directors shall not take place on the day appointed by this act, the corporation shall not for that reason be dissolved; but an election may be held on any other day, in such manner as shall be provided for by the by-laws, or shall be prescribed by the directors.

§ 6. The directors may require payment of subscriptions to the stock at such times and in such proportions as they shall see fit, under the penalty of forfeiting all stock and previous payments thereon, and may sue for

and recover all such subscriptions. Notice of the time and place of such payments shall be published for four weeks next preceding the time so fixed, at least once in each week, in a newspaper published in the village of Peekskill.

Notice of calls therefor upon stockholders

§ 7. The directors shall annually appoint a president, a secretary, and treasurer, and such other officers and agents as they shall from time to time deem necessary, and may remove all officers appointed by them and appoint others in their places, and fill all vacancies in the offices; and they may make and ordain such by-laws, rules, and regulations as they may deem necessary and proper for the management of their business, and for accomplishing the purposes of the corporation.

Officers.

By-laws.

§ 8. For the purpose of supplying the village of Peekskill with pure and wholesome water, the said company may purchase, take, and hold any real estate, and by their directors, agents, servants, and other persons employed, may enter upon the lands of any person or persons which may be necessary for said purpose, and may take such water from any springs, ponds, lakes, or streams that will not deprive the owner or owners thereof from a sufficient supply for their individual use, and divert and convey the same to said village; and may lay and construct any pipes, conduits, aqueducts, wells, reservoirs, or other works or machinery necessary or proper for such purpose, upon any lands so entered upon, purchased, taken or held. Said corporation may, as aforesaid, enter upon any lands, streets, highways, roads, lands, or public squares, through which they may deem it proper to convey the water from said springs, ponds, streams, wells, fountains, and reservoirs, and lay, construct, alter, repair, and replace any pipes, conduits, aqueducts, or other works for that purpose, leaving the said lands, streets, highways, roads, lanes, and public squares in the same condition, as nearly as may be, as they were before said entry; but the said company shall not lay or construct said pipes, conduits, aqueducts, and other works, through any private garden, court yard or building lot, without the written consent of the owner thereof; nor unless compensation shall have been made to such owner for his damages, to be ascertained and

Company may hold real estate

May lay water pipes, etc.

May enter upon lands, streets, etc.

Lands, streets, etc., to be restored in good order. Conditions upon which company may lay pipes through gardens, etc.

determined by commissioners, as in the other cases provided for in this act.

Survey and map of lands to be made and filed.

§ 9. Before taking or using any land or water for the purposes of this act, the directors of this company shall cause a survey and map to be made of the lands intended to be taken or entered upon for any of said purposes, and by which the land of each owner or occupant intended to be taken or used shall be designated; and which map shall be signed by the surveyor or engineer making the same, and by the president of said company, and filed in the office of the clerk of the county of Westchester. The company, by any of its officers, agents, or servants, may enter upon any lands for the purpose of making any examination and of making said survey and map, doing no unnecessary damage.

Company may acquire lands

§ 10. In case the company cannot agree with the owners and occupants of any lands or water intended to be taken or used, as aforesaid, for the purchase thereof, the directors may apply to the county judge of the county of Westchester for the appointment of three commissioners, by whom the compensation to be paid for damages suffered or to be suffered by any person or persons, by reason of taking said lands and water and constructing any of the works of said company, shall be ascertained and determined, and in case of the death, resignation, refusal, or disability to act of any of said commissioners, the judge may appoint others in their places. The commissioners shall cause a notice of at least twenty days of the time and place of their meeting to be served upon such of the owners of said land and water as reside in this State, which notice may be served personally, or in their absence from their dwellings or place of business, by leaving the same thereat with some person of suitable age, and in case of any legal disability of such owner to act thereupon, serving notice in like manner upon his or her guardian or person appointed to act for him or her, as hereinafter directed; and in case any of said owners do not reside in the State, such notice shall be given them by publishing the same at least once in each week for four weeks successively next preceding the time of such meeting in two newspapers published in the county of Westchester, one at least of which shall

Commissioners to appraise damages.

Notice to resident owners of land.

Notice to guardians, non-residents, infants, etc.

be published in the village of Peekskill ; and if any of said owners shall be insane, infants, idiots, or under any other legal disability, the judge shall appoint some suitable person to attend in their behalf before said commissioners, and take care of their interests in the premises. The commissioners may issue subpoenas to compel the attendance of witnesses to testify before them, and they may administer the usual oaths to such witnesses. They shall make and file in the office of the clerk of Westchester county, a written report of all their proceedings, with the testimony of witnesses examined before them annexed thereto, within ten days after the hearing before them shall be finally concluded, which report shall show the sum awarded to each owner or other person. The company shall pay to each commissioner the sum of three dollars per day for each day necessarily spent by him in the performance of his duties under this act, and to each witness sworn and testifying before them, the same fees as are allowed to witnesses in courts of record.

Report of commissioners.

Their compensation.

§ 11. The said company, or any party to the proceedings before said commissioners, may appeal to the county judge of Westchester county, from the award or determination of the commissioners, provided the party appealing shall, within ten days after any such award or determination shall be made, give notice of the appeal to the other party or parties interested in the same; and the said judge shall, upon the report of the commissioners and testimony taken before them, and upon additional testimony to be taken by him, if he shall deem the same to be necessary, proceed to hear the said appeal, and may confirm the proceedings of the commissioners in whole or in part, or may increase or diminish the amount of compensation awarded by the said commissioners, and if their proceedings in any case have been irregular, the said judge may set the same aside and order a new appraisal; and the said judge may make such orders in reference to the proceedings of the commissioners, and to the notices to be given to the parties as may not be inconsistent with this act, and as the nature of the case and the interest of the parties may require.

Appeals.

Proceedings thereon.

§ 12. Upon the payment or legal tender of the com-

When

company entitled to enter upon lands and waters for purposes of act.

Payment and tender of awards.

Company to take and hold lands, waters, etc., for purposes of act.

Company to lay pipes, etc., under direction of village trustees.

Rules and regulations for use of water.

Penalties for violation thereof.

compensation awarded by the said commissioners or (in case of an appeal) by the said judge, the said company shall be entitled to enter upon, for the purposes contemplated by this act, all the lands and waters, and real estate, for which said compensation shall have been paid or tendered, as aforesaid, and to hold and use the same for the said purposes to them and their successors forever. If any person to whom any compensation shall be awarded, or who shall be entitled to the same by virtue of said award, does not reside in this State, or who cannot be found, or shall refuse to receive the sum awarded to him or her, then the said payment may be made by depositing the same to the credit of said person, in such bank, as may be designated by said judge. If the person to whom compensation is awarded, or who is entitled to receive the same as aforesaid, be under legal disability as aforesaid, payment may be made to his or her guardian or person appointed as aforesaid by said judge; and if said guardian or person cannot be found, then by deposit in bank as above provided.

§ 13. The said company shall also take and hold for the purposes contemplated by this act, all the lands, waters, easements and real estate which they shall in any way legally enter upon and take by virtue hereof to them and their successors forever.

§ 14. In laying pipes, conduits or aqueducts, or constructing or erecting works in the streets, lanes or public squares of the said village, the said company shall conform to such regulations as the board of trustees of said village shall prescribe.

§ 15. The said directors of said company may establish rules and regulations for and concerning the conduct of all such persons as shall use the water from their works, so far as respects the preservation and use, and restraining the waste thereof, and may thereby impose penalties and forfeitures for any violation of said rules and regulations; but such penalty and forfeiture shall not in any case exceed the sum of ten dollars, which penalty or penalties may be recovered with costs, in the name of the company, before any court having jurisdiction thereof. Said rules and regu-

lations shall be published for three weeks successively, in a newspaper published in said village of Peekskill; and a copy of said rules and regulations, certified by the president of the company, with affidavits of the publication of the same made by any one of the publishers of said paper, shall be received as evidence in all courts and places.

Publication of regulations

§ 16. The said company shall furnish water to the village of Peekskill, for the purpose of extinguishing fires and for other purposes, upon such terms as may be agreed upon between them and the trustees of said village; and the said trustees are hereby authorized to contract with said company for water, for the purpose of extinguishing fires, constructing fountains, and furnishing public buildings, and to levy and assess the cost thereof, annually upon the taxable property within the corporate limits of said village, by general tax; and the said company may make any agreements, contracts, grants and leases for the sale, use and distribution of water, that may be agreed upon between said company and any person or persons, associations and corporations, which agreements, contracts, grants and leases shall be valid and effectual in law.

Company shall supply water to village.

May make contracts and leases for sale or use of water.

§ 17. Any person who shall maliciously or willfully destroy or injure any of the works or property of said company, or who shall maliciously or willfully commit any act which shall injuriously affect, or tend thus to affect the water of said company, or the streams or fountains from which said company shall be supplied with water, shall be guilty of a misdemeanor, and may be punished by fine, not exceeding ten dollars, or imprisonment, or both, in the discretion of the court, and shall also forfeit and pay to said company treble the damages sustained thereby, to be recovered in any court having cognizance thereof, with costs.

Injury to water works; how punished.

§ 18. The corporation hereby created, shall possess the powers and be subject to the provisions of title three, chapter eighteen, of the first part of the Revised Statutes, so far as the same are applicable and not otherwise provided for in this act.

General powers and provisions.

§ 19. The stockholders of the company hereby created, shall be individually liable for the payment of the

Individual liability of

stockholders. debts of the said company to an amount equal to the amount of stock held by them respectively, until the whole amount of capital stock so fixed and prescribed as above shall have been paid in, and any stockholder who may have paid any demands against said company, either voluntarily or by compulsion, shall have a right to resort to the other stockholders who were liable to contribution; and said stockholders shall be individually liable for the payment of any debts due by said company to its laborers and servants, but no suit or proceeding shall be commenced against any stockholder for the recovery of any money due by said company, unless suit shall have been brought for the recovery thereof against said company within one year from the time when the same became due, nor unless judgment therefor shall have been obtained against said company, and execution issued thereon returned unsatisfied.

Payment of debts to laborers, etc. Liability of executors, guardians, etc. § 20. No person holding stock in said company, as executor, administrator, guardian or trustee and no person holding such stock as collateral security, shall be personally liable as stockholders of said company, but the person pledging such stock shall be considered as holding the same, and shall be liable as stockholders accordingly; and the estate and funds in the hands of such administrator, guardian or trustee, shall be liable in like manner, and to the same extent as the testator or intestate, or the ward or person interested in such fund would have been if he had been living and competent to act, and held the stock in his own name.

Increase of capital stock. § 21. If the directors shall, at any time after the organization of said company, determine to increase the capital stock, as herein provided, the said new stock shall be divided among the stockholders in proportion to the amount held by them respectively, at the time of such increase, as they shall severally elect; and in case the same shall not be so distributed, then books of subscription for the balance of said additional stock shall be opened in the same manner as provided in section three of this act, and the said directors may require payment of the subscription to the said additional stock in the same manner as provided in section six of this act.

§ 22. This act shall take effect immediately.